

EDMUND G. BROWN JR., Attorney General
of the State of California
PAUL C. AMENT
Supervising Deputy Attorney General
E. A. JONES III, State Bar No. 71375
Deputy Attorney General
ELAINE GYURKO
Senior Legal Analyst
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 897-4944
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. 1H 2008 408

DENNIS TRUE YUCAMCO
13335 Bracken Street
Arleta, California 91331

STATEMENT OF ISSUES

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs (Board).
2. On or about June 18, 2008, the Board received an application for a Respiratory Care Practitioner License from Dennis True Yucamco (Respondent). On or about March 17, 2008, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on October 15, 2008.

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of

1 the following laws. All section references are to the Business and Professions Code (Code) unless
2 otherwise indicated.

3 4. Section 3710 of the Code states: “The Respiratory Care Board of California,
4 hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the
5 Respiratory Care Practice Act].”

6 5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and
7 revoke licenses to practice respiratory care as provided in this chapter.”

8 6. Section 3732, subdivision (b) of the Code states:

9 “The board may deny an application, or may order the issuance of a license
10 with terms and conditions, for any of the causes specified in this chapter for
11 suspension or revocation of a license, including, but not limited to, those causes
12 specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761.”

13 7. Section 3750 of the Code states:

14 “The board may order the denial, suspension or revocation of, or the
15 imposition of probationary conditions upon, a license issued under this chapter, for
16 any of the following causes:

17 “ . . .

18 “(d) Conviction of a crime that substantially relates to the qualifications,
19 functions, or duties of a respiratory care practitioner. The record of conviction or a
20 certified copy thereof shall be conclusive evidence of the conviction.

21 “. . . .”

22 8. Section 3752 of the Code states:

23 “A plea or verdict of guilty or a conviction following a plea of nolo
24 contendere made to a charge of any offense which substantially relates to the
25 qualifications, functions, or duties of a respiratory care practitioner is deemed to be
26 a conviction within the meaning of this article. The board shall order the license
27 suspended or revoked, or may decline to issue a license, when the time for appeal
28 has elapsed, or the judgment of conviction has been affirmed on appeal or when an

1 order granting probation is made suspending the imposition of sentence, irrespective
2 of a subsequent order under Section 1203.4 of the Penal Code allowing the person
3 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
4 the verdict of guilty, or dismissing the accusation, information, or indictment.”

5 9. California Code of Regulations, Title 16, section 1399.370, states:

6 “For the purposes of denial, suspension, or revocation of a license, a crime
7 or act shall be considered to be substantially related to the qualifications, functions
8 or duties of a respiratory care practitioner, if it evidences present or potential
9 unfitness of a licensee to perform the functions authorized by his or her license or in
10 a manner inconsistent with the public health, safety, or welfare. Such crimes or acts
11 shall include but not be limited to those involving the following:

12 “. . .

13 “(c) Conviction of a crime involving driving under the influence or reckless
14 driving while under the influence.

15 “. . . .”

16 COST RECOVERY

17 10. Section 3753.5, subdivision (a) of the Code states:

18 "In any order issued in resolution of a disciplinary proceeding before the
19 board, the board or the administrative law judge may direct any practitioner or
20 applicant found to have committed a violation or violations of law to pay to the
21 board a sum not to exceed the costs of the investigation and prosecution of the
22 case."

23 11. Section 3753.7 of the Code states:

24 "For purposes of the Respiratory Care Practice Act, costs of prosecution
25 shall include attorney general or other prosecuting attorney fees, expert witness fees,
26 and other administrative, filing, and service fees."

27 12. Section 3753.1, subdivision (a) of the Code states:

28 "An administrative disciplinary decision imposing terms of probation may

1 include, among other things, a requirement that the licensee-probationer pay the
2 monetary costs associated with monitoring the probation."

3 CAUSE FOR DENIAL OF APPLICATION

4 (Conviction of a Crime)

5 13. Respondent's application is subject to denial under Business and
6 Professions Code sections 3750, subdivision (d), and 3752, and California Code of
7 Regulations, Title 16, section 1399.370, subdivision (c), in conjunction with Business and
8 Professions Code section 3732, subdivision (b), in that Respondent was convicted of crimes
9 substantially related to the qualifications, functions or duties of a respiratory care
10 practitioner. The circumstances are as follows:

11 March 7, 2007, Conviction

12 A. On or about December 24, 2006, California Highway Patrol Officers
13 observed Respondent driving his vehicle at a high rate of speed, swerving into
14 traffic lanes, and crossing into the center median. Upon contact with Respondent
15 after making an enforcement stop, one of the officers detected the strong odor of
16 alcohol coming from Respondent's vehicle. As Respondent exited the vehicle, his
17 gait was unsteady and there was a strong odor of alcohol on his breath and person.
18 His eyes were red and watery, and his speech was slurred. He admitted to the
19 officer that he had been drinking five bottles of beer. He failed to successfully
20 complete the field sobriety tests. The results of Respondent's breath test indicated
21 his blood alcohol level was .12%. He was arrested for driving under the influence
22 of alcohol, and driving with .08% or higher blood alcohol level.

23 B. On or about February 6, 2007, in Los Angeles County Superior Court
24 Complaint No. 7RI00940, Respondent was charged with driving under the influence
25 of alcohol, in violation of Vehicle Code section 23152, subdivision (a), a
26 misdemeanor (Count 1), and driving with .08% or higher blood alcohol level, in
27 violation of Vehicle Code section 23152, subdivision (b), a misdemeanor (Count 2).

28 C. On or about March 7, 2007, Respondent was convicted upon his plea

1 of nolo contendere to driving with .08% or higher blood alcohol level (Count 2).
2 He was placed on probation for three years with terms and conditions, including:
3 serve 4 days in county jail (with credit for 1 day); pay fines and fees in the amount
4 of \$2,024.00; complete an eighteen month treatment or counseling program; and
5 comply with all standard DUI terms and conditions of probation. Count 1 of the
6 complaint was dismissed.

7 February 8, 2001, Conviction

8 D. On or about January 10, 2001, California Highway Patrol officers
9 arrested Respondent for driving under the influence of alcohol, and driving with
10 .08% or higher blood alcohol level.

11 E. On or about January 23, 2001, in Los Angeles County Superior
12 Court Complaint No. 1VN00274, Respondent was charged with driving under the
13 influence of alcohol, in violation of Vehicle Code section 23152, subdivision (a), a
14 misdemeanor (Count 1), and driving with .08% or higher blood alcohol level, in
15 violation of Vehicle Code section 23152, subdivision (b), a misdemeanor (Count 2).

16 F. On or about February 8, 2001, Respondent was convicted upon his
17 plea of nolo contendere to driving with .08% or higher blood alcohol level (Count
18 2). He was placed on probation for three years with terms and conditions,
19 including: serve 13 days in county jail (with credit for 1 day); pay fines and fees in
20 the amount of \$1,264.00; or in lieu of county jail or fine, perform 130 hours of
21 community service; complete a three month licensed first offender alcohol program;
22 and comply with all standard DUI terms and conditions of probation. His driving
23 privilege was restricted for 90 days. Count 2 of the complaint was dismissed.

24 PRAYER

25 WHEREFORE, Complainant requests that a hearing be held on the matters
26 herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

27 1. Denying the application of Dennis True Yucamco for a Respiratory
28 Care Practitioner License;

2. Directing Dennis True Yucamco to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

3. Taking such other and further action as deemed necessary and proper.

DATED: December 23, 2008

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant